

Californians for Renewable Energy, Inc. (CARE)

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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

Application for Certification for the
Metcalf Energy Center [Calpine
Corporation and Bechtel Enterprises, Inc.]

) Docket No. 99-AFC-3
) **More in regards to the Motion for**
) **Reconsideration of a Workshop**
) **on Public Participation on the MEC**
)

More in regards to the Motion for reconsideration of a workshop on public participation

This is addressed to your continued failure and refusal to recognize the serious problems in regard to the public's statutory right to fully, intelligently and meaningfully participate in A CEQA review process, and to have the CEQA statutory scheme, including its primary goal of environmental protection, fully, intelligently and meaningfully implemented and enforced. CARE is also advised and believes the public has a constitutional right to petition government, which has been recognized by California courts as having "a paramount and preferred place in our democratic system ... Hence, `where, as here, a statute expressly invites or allows interested persons to protest, or give their views or opinions concerning, proposed or requested governmental administrative action, such persons singly or in combination have a lawful right to do so ... '" (7 Witkin, SUMMARY OF CALIFORNIA LAW (9th ed. 1988) Constitutional Law, sec. 142 at pp. 199-200, quoting Matossian v. Fahme (1980) 101 Cal.App.3d 128, 136, 137.) It was the California Supreme Court that stated: "The right of petition is of parallel importance to the right of free speech and the other overlapping, cognate rights contained in the First Amendment and in equivalent provisions of the California Constitution ... It is essential to protect the ability of those who perceive themselves to be aggrieved by the activities of governmental authorities to seek redress through all the channels of government." (Long Beach v. Bozek (1982) 31 Cal.3d 527, 535.) To put it simply, what CEQA gives the public cannot be taken away by the CEC without violating the public's constitutional rights.

This is part of our continuing efforts, in light of our limited resources, to not only continue requesting a "workshop" or other procedure to address the CEQA public participation problems, but also to provide, to the extent our limited resources allow, the factual and legal support for our theories of CEQA liability that may be raised by CARE in any subsequent CEQA enforcement action.

Michael E. Boyd

Michael E. Boyd – President, CARE 10-9-00